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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA  
FIRST APPELLATE DISTRICT  
DIVISION FOUR

THE PEOPLE,

Plaintiff and Respondent,

v.

JOSEPH RAY WALKER,

Defendant and Appellant.

A095973

(Solano County  
Super. Ct. No. VC151149)

Joseph Ray Walker appeals from a judgment upon his plea of no contest to felony evasion of a police officer (Veh. Code, § 2800.2, subd. (a)). The trial court placed him on probation on conditions including that he submit to warrantless search and seizure for firearms. Walker contends that the search condition violates his constitutional rights. We conclude that the trial court did not abuse its discretion in imposing the condition.

**FACTUAL BACKGROUND**

On November 18, 2000, Walker led the police on a high-speed chase that covered approximately 11.5 miles and lasted 15 minutes. Walker was driving the car, and a parolee was a passenger. During the pursuit, Walker drove at speeds up to 75 miles per hour on city streets and 90 miles per hour on the highway. He drove through eleven stop signs, nine red lights, failed to yield to pedestrians, and nearly collided with five separate vehicles. The pursuit ended when Walker crashed into the front porch of a residence.

**DISCUSSION**

At the sentencing hearing, the trial court, over Walker's objection, imposed two probation search conditions. It first ordered Walker subject to search and seizure with

probable cause and then ordered Walker subject to a search condition without probable cause limited to firearms. Walker challenges the latter condition.

In making its order, the court accepted the prosecutor's argument that a search condition was related to Walker's crime of flight in that it would deter him from fleeing the police. The court, however, first limited the condition to searches and seizures with probable cause. The following colloquy occurred: "THE COURT: . . . The terms of his probation have to be rationally related to the underlying offense. He fled from the police, endangered citizens and property, including the police officer. So in the future the police want to contact him, if they do it unlawfully, he doesn't have anything to worry about; however, in the lawful performance of their duties the defendant is ordered to submit to search and seizure with or without cause, notice, consent or warrant. *I will delete probable cause to search or seize him, so that is a little different.* All right. [¶] MS. D'AUGUSTINO [deputy public defender]: Just to clarify? [¶] THE COURT: Okay. [¶] MS. D'AUGUSTINO: He's ordered to submit to search and seizure *with probable cause.* [¶] THE COURT: Correct. [¶] MS. D'AUGUSTINO: Is that any different from any other individual? [¶] THE COURT: Maybe not. [¶] MS. D'AUGUSTINO: Okay." (Italics added.) The court then addressed the search for weapons condition: "THE COURT: Now, what about this no weapons? Are you asking for no weapons? [¶] . . . [¶] MR. KAUFFMAN [deputy district attorney]: It's a felony. [¶] THE COURT: He's ordered not to possess any firearms. He's ordered to submit to search and seizure at any time without cause, notice, consent or warrant. I'm limiting [that to] the firearms. . . ." After the trial court ordered further conditions of probation, defense counsel objected to the search and seizure condition regarding firearms: "We would object to that term as well. There were no firearms alleged to have been involved in this case . . . ."

Contrary to the reporter's transcript, the clerk's order of probation states that Walker is ordered to submit to search and seizure for firearms "with probable cause." The Attorney General argues that the record is "insolubly ambiguous" and that the matter should be remanded to the trial court for clarification. We disagree.

“When faced with conflicts in the record, we must consider the circumstances of the proceedings in the particular case and rely on that part of the record which, because of its origin or nature or otherwise, is entitled to greater credence.” (*People v. Azevedo* (1984) 161 Cal.App.3d 235, 245.) Here, the record of the reporter’s transcript indicates that the court ordered Walker to submit to search and seizure with probable cause *and* determined that Walker must submit to search and seizure without probable cause limited to firearms. We believe that the reporter’s transcript of the sentencing hearing more accurately reflects the court’s order and is entitled to greater credence. (See *People v. Smith* (1983) 33 Cal.3d 596, 599.)

The trial court’s imposition of the search condition was proper. Trial courts have broad discretion to impose probation conditions to foster rehabilitation and protect public safety. (*People v. Carbajal* (1995) 10 Cal.4th 1114, 1120-1121.) A probation condition, however, will be held invalid if it: “ ‘(1) has no relationship to the crime of which the offender was convicted, (2) relates to conduct which is not in itself criminal, and (3) requires or forbids conduct which is not reasonably related to future criminality . . . .’ ” (*People v. Lent* (1975) 15 Cal.3d 481, 486.)

Here, the trial court imposed the search condition for firearms because Walker was convicted of a felony. The condition relates to his offense in that as a felon, Walker is prohibited from possessing firearms. (Pen. Code, § 12021.) Further, the trial court, in initially considering a search condition, noted that Walker fled from the police, and endangered citizens and property. The trial court could reasonably conclude that imposition of the search condition for firearms was necessary due to concerns for public safety or to prevent future criminality due to the impulsive nature of Walker’s offense. As the Attorney General states, Walker’s “actions raise concern regarding the risks he would take if he had a gun and a desire to prevent his own capture.” Given the circumstances of the current offense, the trial court’s imposition of the search condition limited to firearms was appropriate. (See *In re Jimi A.* (1989) 209 Cal.App.3d 482, 488 [search condition proper for battery offense that did not involve weapon use due to impulsiveness of the offense which suggested that defendant lacked self-control]; *People*

*v. Balestra* (1999) 76 Cal.App.4th 57, 67 [search condition serves rehabilitative purpose of insuring that probationer is obeying all laws].)

**DISPOSITION**

The clerk's order of probation is amended to provide that Walker is subject to the search condition for firearms with or without probable cause. In all other respects, the judgment is affirmed.

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RIVERA, J.

We concur:

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REARDON, Acting P.J.

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SEPULVEDA, J.